Saskatchewan

Minister
of Energy
and Mines

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Mineral Taxation Act (1983)

This White Paper is being circulated to solicit input from interested parties and provide a basis for industry/government consultation on a new Mineral Taxation Act.

As outlined in the attached paper and draft statute, the intention is to simplify and consolidate existing legislation, while providing a framework for mineral taxation.

Suggestions, views and opinions on the proposed legislation and policies are cordially invited. Proposals for additional policy changes are welcome.

Submissions should be forwarded in writing to the attention of Wayne Brownlee, Assistant Deputy Minister, Saskatchewan Energy and Mines, 1914 Hamilton Street, Regina, Saskatchewan, S4P 4V4 no later than September 1, 1983.

Grant Devine, Premier and
Minister of Energy and Mines

Attachment

White Paper

Summary

The proposed Mineral Taxation Act (1983) is intended to consolidate and simplify existing taxation and administrative requirements placed on industry by the government. It is also intended to incorporate new provincial powers for indirect taxation which follow from recent constitutional changes agreed to in 1982.

The proposed Act will provide legislative authority for the following:

1. A tax on all minerals produced in Saskatchewan (except for oil, gas and uranium), thereby permitting a range of tax regimes to be defined in legislative schedules and/or regulations.

   Initially, this will permit a replacement of the current assessment based freehold coal tax with a more equitable production tax. Subsequently, it is anticipated that a potash schedule would be added to replace the current Potash Resource Payment Agreements when they expire in 1984.

2. A mineral acreage (rights) tax which would maintain the same taxpayers, rates of tax, and general rules of administration as the present Mineral Lands Tax.

3. The repeal of the Producing Tract Tax for all mineral lands including oil and gas lands. While the tract tax is now applicable to mineral acreage with producing oil or gas wells, the rate of the tax charged is nil.

The government's intention for this White Paper is to circulate it and the accompanying draft statute to interested parties to provide a basis for consultations over the summer. Based on this input a final draft will be prepared for introduction and passage in the 1983 fall session of the Legislature. At that time it is anticipated that a schedule for the taxation of coal will be appended to take effect by January 1, 1984. An additional schedule would be prepared for Legislative approval for potash to replace the Potash Resource Payment Agreements when they expire in June of 1984.

The content of each of the schedules to be subsequently attached will specify the tax structure for the respective mineral sector. The current intention is to be as specific as reasonably possible regarding the basis of calculation of the tax in the schedules, although there is provision for specifying the rates of tax and other matters in regulations. Through consultation it is hoped that the appropriate balance can be achieved regarding the level of detail included in the schedules versus the regulations.

WHITE PAPER

June 20, 1983

The present Mineral Taxation Act provides for a number of distinct taxes which are reflective of constitutional restraints on the provincial taxing power before the 1982 constitutional amendments. Some of these taxes have proven highly controversial in the past and have given rise to litigation over the province's power to impose them. They have also proven unsatisfactory for a number of other reasons, such as being inequitable in application and difficult to administer.

Previous to the 1982 constitutional changes, the provinces were limited to "direct taxation within the province" by section 92(2) of the British North America Act (now renamed the Constitutional Act, 1867). The federal Parliament, however, was empowered by section 91(3) to raise money "by any mode or system of taxation". The provincial restriction as to direct taxation evoked the classic distinction between direct and indirect taxes originally made by John Stuart Mill, namely that a direct tax is one paid by the person ultimately intended to bear the burden of the tax, while an indirect tax is payable by one person with the expectation that it will be passed on to another. Land and income taxes have traditionally been held to be direct, while so-called "commodity" and excise taxes are examples of the latter category, and are capable of being passed on to the purchaser of the article subject to tax in the form of an increased price. Thus, a tax on a mineral substance when produced for sale as a commodity would be classified as indirect, while that imposed on the mineral in situ would be direct.

It is a feature of direct taxation systems that they are often cumbersome and complex. For example, freehold coal tax currently imposed by Section 32.1 of the existing Mineral Taxation Act requires an assessment of the value of

coal in a tract and the setting of a mill rate according to a complex formula in each year. Numerous complaints have been made regarding the application of this tax.

Section 92A(4), added to the Constitution Act, 1867 by the Canada Act, 1982, allows a province to enact laws in relation to "the raising of money by any mode or system of taxation in respect of non-renewable natural resources and...the primary production therefrom" whether or not the production is exported, as long as such laws do not result in taxation that discriminates between the production that remains in the province and that exported to another part of Canada. Thus, provincial resource taxation is placed on virtually the same basis as the federal general taxing power, and indirect production taxes may now be imposed. The tremendous importance of the resource revenues for Saskatchewan, and the new constitutional framework which has expanded provincial legislative power over resource taxation, suggest that a substantial revision of The Mineral Taxation Act is now timely.

The Department of Energy and Mines is considering the replacement of the existing Mineral Taxation Act by legislation imposing production taxes in place of the assessment-based producing area and tract, potash reserve and freehold coal taxes. As noted previously the production taxes will not apply to oil, gas and uranium. Oil and gas are currently covered by existing legislation, The Oil and Gas Conservation Act and The Freehold Oil and Gas Production Tax Act. Uranium is currently only found in commercial quantities on Crown land, hence the royalty structure and rates will remain in regulations pursuant to the Mineral Resources Act.

In order to elicit comment from those industries that would be affected by this proposed legislation, a draft statute designed to accomplish the change is appended to this White Paper.

The draft statute would preserve certain features of the present Mineral Taxation Act such as the tax on mineral ownership at its present rate and procedures for its enforcement. It would contain general definitions common to both mineral ownership and production taxes and provisions for returns, records, enforcement and administration of both types of tax. As presently envisaged, the new statute would be divided in the following manner:

I. Mineral Production Taxes

II. Mineral Rights Tax

III. Administration and Enforcement

IV. General

A summary of each of these divisions follows.

Part I - Mineral Production Taxes

This part provides for taxes to be imposed on "scheduled minerals" that are produced in the province, and for the enactment of schedules which would form part of the Act and define the terms on which tax would be imposed with respect to a given mineral in commercial production. The concept of schedules for defining the tax schemes was chosen for several reasons. Chief among these were that the mineral industries in the province are disparate in many ways and a single tax regime would therefore be inappropriate, that the extractive industries are expected to develop at different stages in time and a new schedule could be added as a new mineral

was developed, and that the industries desired as much of the tax machinery as possible to be contained in legislation rather than in regulations. It was recognized that enacted schedules would provide a greater degree of certainty over time than would have been possible if the specific features of each tax had been left to regulations, as was often the practice in previous years. A further reason was the need to introduce production tax schemes for the different industries at various points in time. For example, the Potash Resource Payment Agreements stipulate that no new taxes can be imposed on potash during their terms, which come to an end in June, 1984. On the other hand, both the government and the coal industry are in agreement that a new freehold coal tax should be introduced before January 1, 1984.

The schedules would contain the basis of calculation of the taxes, including allowances, credits and deductions, the persons or classes liable to pay or remit tax, the time at which the tax is levied, calculated and paid and provisions regarding the administration or collection of the production taxes. They would also contain authority to make regulations respecting matters not specifically required by the Act to be set forth in the schedule such as rates of interest on late payments and refunds, and possibly rates of tax.

As the details of each schedule would be a matter for negotiation with the industry in question, no schedules are being circulated at this time.

Part II - Mineral Rights Tax

This part continues the ownership tax on mineral acreage in largely

unaltered form. Every mineral owner would be liable to pay $320 per year for each nominal section of mineral rights (640 acres or 259 hectares) owned by him. This amount would be pro-rated for fractions of a nominal section. Individuals would only be liable to pay the tax if they owned more than five nominal sections of mineral rights and then only in respect of the excess over five sections, as at present. The minimum tax payable would be $50 instead of the present minimum of $1.00. Taxes less than $50 will not be collected. The tax would be paid and remitted in the manner prescribed in the regulations. Anti-avoidance provisions in the current Mineral Taxation Act which nullify certain types of transfers of mineral rights would be continued. The procedure whereby mineral rights may become vested in the Crown through forfeiture for non-payment of tax would also be carried into the new statute.

Part III - Administration and Enforcement

Part III would impose certain general requirements regarding the keeping of records and remission of tax, and would confer powers upon the Minister that are deemed necessary to enforce the Act. Offences and penalties are also set out. In endeavouring to standardize our administrative and enforcement processes, this part is patterned after The Freehold Oil and Gas Production Tax Act.

Taxpayers would be required to keep in the province records relating to their mineral ownership or interests and any other records that may be prescribed in the regulations, but the Minister could permit such records to be kept outside the province if a taxpayer undertook to make the same available for inspection. The Minister would be given power to enter and

inspect premises, including mines, for the purpose of performing his duties under the Act and would have the right of access to all records and documents connected with the production or processing of minerals. Information so gained, however, could not be disclosed except for the purpose of the Act.

The Minister would be given power to make such directions as he deemed appropriate to counteract improper avoidance or reduction of tax, even if the same were not illegal. He could also deem separate persons to be associated if he determined that their separate existence did not have a bona fide business purpose and was intended to reduce tax otherwise payable.

All amounts becoming payable under the Act would form a debt due to the Crown and would be recoverable as such, and would also form a first lien and charge on the entire estate of the taxpayer.

Part IV - General

Part IV would confer certain powers on the Lieutenant Governor in Council incidental to the administration of the Act. The Lieutenant Governor in Council would be empowered to exempt by regulation scheduled minerals, mineral rights, or persons from tax, compromise and settle claims for arrears of tax, and enlarge the time allowed for doing anything required under the Act. Part IV would also give the Lieutenant Governor in Council a broad power to make regulations concerning matters which the Act states are to be governed by regulations. Such regulations could be made retroactive to January 1, 1984 or a later date.

Part IV also contains a transitional section which discontinues the taxes payable under the present Mineral Taxation Act as of January 1, 1984 except the mineral ownership tax as it applies to owners who have entered into a Potash Resource Payment Agreement with the province. The effect of those agreements is that no ownership tax can be imposed under a new statute applying to the whole of the calendar year 1983. Therefore, the existing ownership tax will continue to apply to producers who signed Potash Resource Payment Agreements until December 31, 1984 and those producers will not be liable to pay the new mineral ownership tax until after that time.

Summary

Overall the proposed statute is designed to simplify existing taxation and administrative requirements for industry operation. The umbrella structure of the legislation will permit future additions as necessary without a proliferation of new statutes. The net impact of the proposed legislation will be to relieve the administrative burden on both industry and government without the threat of continuously changing the rules.

Draft: June 20, 1983

Saskatchewan Department of Energy and Mines
White Paper on Mineral Taxation in Saskatchewan
Proposed Text of The Mineral Taxation Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

SHORT TITLE.

1. This Act may be cited as The Mineral Taxation Act, 1983.

INTERPRETATION.

2.-(1) In this Act:

(a) "Crown" means Her Majesty the Queen in right of Saskatchewan;

(b) "department" means the department over which the minister presides;

(c) "mineral" means any non-viable substance formed by the processes of nature, irrespective of chemical or physical state and both before and after production, but does not include any water, any agricultural soil, any sand or gravel, or any other substance that may be prescribed;

(d) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(e) "person" includes an individual, corporation, company, syndicate, trust, firm, partnership, co-owner or party, and includes the successors,

heirs, executors, administrators or other legal representatives of any such person;

(f) "prescribed" means prescribed by regulation from time to time by the Lieutenant Governor in Council;

(g) "taxpayer" means any person who is liable to pay any of the taxes imposed by this Act.

(2) Any Schedule to this Act that is enacted in respect of a scheduled mineral pursuant to Part I forms part of this Act for all purposes.

(3) In this Act, any reference to any other statute or to an enactment of the Parliament of Canada includes a reference to any regulations, orders or other statutory instruments made pursuant thereto, and any reference to any enactment of the Parliament of Canada shall be deemed to be a reference thereto as re-enacted, amended, revised or consolidated as at May 1, 1983.

PART I.

MINERAL PRODUCTION TAXES.

3. In this Part:

(a) "Schedule" means, in respect of a scheduled mineral, the Schedule to this Act enacted in respect thereof pursuant to this Part;

(b) "scheduled mineral" means any mineral in respect of which a Schedule has been enacted.

4. A tax shall be imposed upon each scheduled mineral produced in the province.

5. The taxes imposed by section 4 upon a scheduled mineral shall be levied, calculated and paid in the manner and at the time or times required by or under the Schedule enacted in respect thereof.

6. Without limiting the generality of section 5, in respect of the taxes imposed by section 4 upon a scheduled mineral:

(a) the determination of the persons or classes of persons who shall be liable to pay or remit such taxes;

(b) the basis of calculation of such taxes, including any allowances, credits or other deductions that may be made or taken in calculating or paying such taxes;

(c) the time or times at which such taxes shall be levied, calculated and paid;

(d) any requirements in respect of the administration or collection of such taxes, to the extent not otherwise provided for in this Act; and

(e) the authority to make any regulations necessary or advisable in respect of the levying, calculation, payment or remittance of such taxes, to the extent not otherwise provided for in this Act;

shall be provided for in the Schedule enacted in respect of that scheduled mineral.

PART II.

MINERAL RIGHTS TAX.

7.-(1) In this Part:

(a) "certificate of title" means a certificate of title issued under The Land Titles Act;

(b) "mineral right" means the right existing in any person by virtue of a certificate of title to produce any one or more minerals within, upon or under the lands described in the certificate of title, whether or not the title thereto has been severed from the title to the surface;

(c) "Mineral Rights Tax Administrator" means the officer of the department in charge of the administration of the taxes imposed by section 8;

(d) "nominal section" means 259 hectares or 640 acres depending upon which measurement is used in a certificate of title to describe the area of the lands to which it relates;

(e) "owner" means a person who holds a certificate of title that includes any mineral right.

(2) Notwithstanding clause (1)(e), but subject to subsection (3), where:

(a) any mineral right has been sold under a bona fide agreement of sale under the terms of which the purchaser becomes liable for payment of any taxes imposed upon or in respect of that mineral right after the date of execution of the agreement or after another date specified in the agreement; and

(b) the vendor or the purchaser under that agreement, or any assignee or successor in interest of either of them, has given to the minister written notice of that agreement and of any assignment thereof;

for the purposes of this Part the purchaser under that agreement or the assignee or successor in interest of the purchaser, if any, shall be deemed to be the owner of that mineral right on, from and after the date of execution of that agreement or on, from and after any other date that may be specified in the agreement with respect to the payment of the taxes mentioned in clause (a).

(3) Subsection (2) does not apply in respect of an agreement of sale where:

(a) the vendor under that agreement is the Director appointed under the Veterans' Land Act (Canada); and

(b) the purchaser under that agreement is a veteran who is qualified to participate in the benefits of the Veterans' Land Act (Canada);

unless the agreement of sale has been assigned by the purchaser thereunder to a person who is not a veteran so qualified to participate in such benefits, and where the agreement is so assigned the assignee shall be deemed to be the owner of the mineral right to which the agreement relates only on, from and after the date upon which he actually becomes liable by virtue of the assignment for payment of the taxes mentioned in clause (2)(a).

8. Except as otherwise provided in this Part, every owner of a mineral right shall be liable for and shall pay in each year a tax in the amount of $320 for each nominal section of the aggregate area of all mineral rights owned by him in the year, and a pro rata amount for any area of such mineral rights that is not a full nominal section.

9.-(1) Subject to subsection (2), each owner of a mineral right shall be considered to own in respect thereof an area equal to the area of the lands described in the certificate of title thereto, whether or not there are other mineral rights in the same lands existing by virtue of one or more other certificates of title.

(2) Where more than one person is registered in a land titles office as the owner of a mineral right, and each such person is the owner of an undivided fractional or percentage interest in that mineral right, each such owner of that mineral right shall be considered to own in respect thereof an area equal to a portion of the area of the lands described in the certificate of title thereto that is proportionate to his fractional or percentage interest in that mineral right.

10. The taxes imposed by section 8 do not apply to any mineral right in any lands the surface of which:

(a) is comprised in the right of way, station grounds, yards or terminals of any railway;

(b) is within the limits of any city, town or village; or

(c) has been subdivided into lots intended for residential or business purposes or both, or for a cemetery, if a plan thereof has been registered in the land titles office of the land registration district in which those lands are situated.

11.-(1) Where an owner of mineral rights is an individual, the taxes imposed upon him by section 8 for any year shall be calculated and paid only for the aggregate area, if any, of such mineral rights so owned by him that exceeds 5 nominal sections.

(2) For the purposes of subsection (1), there may be included in determining the aggregate area of mineral rights owned by an individual the area of mineral rights held in trust for him by a corporation holding a valid licence under The Trust and Loan Corporations Act if that corporation has delivered to the minister a certificate in prescribed form identifying and describing such mineral rights so held in trust by it and the individual for whom they are so held in trust.

12. Where the amount of the taxes imposed by section 8 upon an owner for any year would, but for this section, be less than $50, the amount of such taxes for the year shall be deemed to be nil.

13.-(1) Unless the area of any mineral right is otherwise determined to the satisfaction of the minister, that area shall be determined as follows:

(a) where the area of any mineral right is described in the certificate of title in acres or hectares, the area of that mineral right shall be the number of nominal sections obtained when that area is divided by the area of a nominal section;

(b) where the area of any mineral right is not described in the certificate of title in acres or hectares, but:

(i) is described as a section or a fraction of a section, the area of that mineral right shall be deemed to be a nominal section or that fraction of a nominal section;

(ii) is described as a legal subdivision, the area of that mineral right shall be deemed to be one-sixteenth of a nominal section; or

(iii) is described as a riverlot, the area of that mineral right shall be deemed to be one-eighth of a nominal section; and

(c) where the area of any mineral right is not described in the certificate of title and is not otherwise determinable, the area of that mineral right shall be deemed to be one-eighth of a nominal section.

(2) For the purposes of subsection (1), there shall be deducted from the area of any mineral right the aggregate area of any exception set forth in the certificate of title thereto, but only to the extent that the area of any such exception is described in the certificate of title.

14.-(1) The taxes imposed by section 8 shall be paid and remitted to the minister in the manner and at the time or times provided in this Act and in the regulations.

(2) Except as otherwise provided in the regulations, the taxes imposed by section 8 for any year shall be paid by each owner on or before June 30 in the year.

15. Except as otherwise provided in the regulations, no contract, agreement or other arrangement of any kind heretofore or hereafter made shall provide for the payment of any of the taxes imposed by section 8 by any person other than the owner upon whom those taxes are imposed, and any such provision made in contravention of this section shall have no force or effect for the purposes of this Part.

16. Except as otherwise provided in the regulations, where at any time on or after December 10, 1973:

(a) the owner of a mineral right, other than an individual, transfers or agrees to transfer all or any part of that mineral right to an individual who becomes the owner thereof as a result of the transfer or agreement; and

(b) after the time when such transfer or agreement takes effect, no tax will be or become payable under this Part by that individual in respect of that mineral right or any part or parts thereof because of the provisions of section 11;

the transfer or agreement shall have no force or effect for the purposes of this Part unless, at the time at which such transfer or agreement takes effect:

(c) that individual is or becomes the beneficial owner in fee simple of the surface of the lands to which that mineral right relates; and

(d) the person transferring or agreeing to transfer that mineral right:

(i) retains no interest in that mineral right by way of lease, profit a prendre or other similar interest;

(ii) retains no right, option or privilege to acquire or re-acquire that mineral right or any such interest in that mineral right; and

(iii) retains no right, option or privilege to require or direct that any interest in that mineral right be transferred or conveyed to any other person.

17. Except as otherwise provided in the regulations, where:

(a) an individual who is the owner of a mineral right transfers or agrees to transfer all or any part of that mineral right to a person, other than an individual, who becomes the owner thereof as a result of the transfer or agreement; and

(b) before the time when such transfer or agreement takes effect, no tax was payable under this Part by that individual in respect of any mineral right because of the provisions of section 11;

the amount of the tax payable under this Part in respect of that mineral right by the person who so becomes the owner thereof for the year in which he so becomes the owner thereof shall be that portion of the amount otherwise payable in respect thereof for the year that is proportionate to the portion of the year during which he is the owner thereof.

18.-(1) If any tax payable under this Part remains unpaid on May 31 in the year next following the year in which the tax became due and payable, the Mineral Rights Tax Administrator shall, as soon as possible after that date, in

prescribed form demand from the registrar of the proper land titles office:

(a) an abstract or certified copy of the certificate of title by which ownership of the mineral right in respect of which the default occurred is certified; and

(b) a general registration certificate in respect of the registered owner of that mineral right.

(2) The registrar shall issue the abstract or certified copy and general registration certificate so demanded and thereupon he shall endorse on the certificate of title a memorandum in prescribed form giving warning of impending forfeiture of that mineral right.

(3) Subject to subsection (4), upon receipt of the abstract or certified copy and general registration certificate, the Mineral Rights Tax Administrator shall cause to be sent by registered mail to the owner of that mineral right, at the address of the owner shown on the abstract or certified copy issued pursuant to subsection (2), and to each person other than the owner who appears by the abstract or certified copy or general registration certificate to have an interest in that mineral right a notice stating that unless the arrears, together with the costs provided for in subsection (7), are paid on or before the date specified in the notice, which date shall be not less than six months after the date of the mailing of the notice, that mineral right will be forfeited to and become the property of the Crown.

(4) Where the address of the owner shown on the abstract or certified copy issued pursuant to subsection (2) is, in the opinion of the Mineral Rights Tax Administrator, an address that will be insufficient for the purpose of delivering to the owner the notice mentioned in subsection (3) after the notice is mailed, the Mineral Rights Tax

Administrator may, if he is aware of the mailing address of the owner, send the notice by registered mail to the owner at that mailing address.

(5) Where the whereabouts of the owner are unknown after all reasonable efforts have been made to ascertain his address, the Mineral Rights Tax Administrator shall also cause the notice mentioned in subsection (3) to be published in two consecutive issues of each of two newspapers published in Saskatchewan and circulating in the area in which the mineral right described in the notice is situated, and such publication shall be deemed to be sufficient service of the notice on the owner.

(6) The cost of publication of the notice in the newspaper shall be added to and form part of the arrears.

(7) The notice shall contain a description of the mineral right and the land within, upon or under which it is situated and a statement of the amount of the arrears and of the costs of the forfeiture proceedings, which costs other than the cost of publication of a notice pursuant to subsection (5) shall be $6 and shall, for the purposes of this Part, be deemed to be part of the arrears.

(8) If, on or before the date specified in the notice, the amount of the arrears is paid in full the Mineral Rights Tax Administrator shall forward to the registrar a request in prescribed form for cancellation of the memorandum endorsed on the certificate of title pursuant to subsection (2) and upon receipt of the request the registrar shall forthwith cancel the memorandum.

(9) If the amount of the arrears or any part thereof remains unpaid on the date specified in the notice, the minister may forward to the registrar of the proper land titles office a copy of the notice together with an affidavit by a person having knowledge of the facts setting forth that the notice was sent by registered mail to each person refer-

red to in subsection (3) in accordance with the requirements of this section and, where such is the case, that the notice was published in accordance with subsection (5).

(10) Upon receipt of the documents mentioned in subsection (9), the registrar shall issue to the Crown a certificate of title, free and clear of all endorsements, to the mineral right described in the notice and being within, upon or under the land described in the notice.

(11) Subsections 58(4) and (5) of The Land Titles Act do not apply to certificates of title issued under subsection (10), and section 69 of the said Act does not apply to any mineral right in the land mentioned in any certificate of title issued under subsection (10).

(12) A notice pursuant to this section shall not be invalidated by reason of the non-receipt of the notice by the person to whom it is addressed or by reason of publication of the notice in accordance with subsection (5) not having come to the attention of the owner, and the affidavit mentioned in subsection (9) shall be deemed to be conclusive evidence that the person named therein has been served with the notice or that the notice has been published in accordance with this section and the certificate of title issued to the Crown under subsection (10) shall be final and binding and not open to question in any court.

19. If any tax payable under this Part in respect of a mineral right is not paid when due, and if the mineral right is otherwise free and clear of charges and other encumbrances, the owner of that mineral right may, with the consent of the minister, transfer and surrender that mineral right to the Crown in full and final satisfaction of the amount of such unpaid tax, and the minister may accept such transfer and surrender subject to any terms and conditions that he may consider it appropriate to impose.

PART III.

ADMINISTRATION AND ENFORCEMENT.

20.-(1) Every taxpayer shall keep in the province proper books and records with respect to his interest in all scheduled minerals and all mineral rights, together with any further books, records, information and particulars that may be prescribed.

(2) Notwithstanding subsection (1), the minister may, upon application by a taxpayer, permit books and records to be kept at a location outside the province if the taxpayer undertakes to make those books and records available to the minister upon terms and conditions satisfactory to the minister.

21.-(1) Except as otherwise provided in a Schedule to this Act or in the regulations, all amounts remitted to the minister in respect of any of the taxes imposed by this Act shall be accompanied by a return in prescribed form.

(2) The minister may demand in writing, from any taxpayer or from any other person believed to have knowledge relevant to the imposition, calculation or payment of any of the taxes imposed by this Act, that such taxpayer or other person make a return to the minister containing any information necessary to enable the minister to make a full and complete determination of the amount of any of the taxes imposed by this Act or of the liability of any person to pay any of the taxes imposed by this Act, and every such taxpayer or other person, upon receipt of the demand, shall forthwith make and deliver the return to the minister.

22. Where any amount required by or under this Act to be paid or remitted to the minister is not so paid or remitted as and when required by this Act or the regulations, interest thereon shall be paid to the minister at the

prescribed rate or rates from the day upon which that amount should have been so paid or remitted to the day upon which it is so paid or remitted.

23. All amounts required by or under this Act to be paid or remitted to the minister are a debt due to the Crown and may be recovered in any manner provided in this Act or the regulations.

24. At any time and from time to time, the minister or any officer of the department authorized by the minister to do so may enter upon any premises for the purposes of making enquiries, obtaining information and otherwise performing his duties under this Act, and for any of those purposes he may use all machinery, equipment, appliances and things as he considers necessary or expedient, and he shall be:

(a) given free ingress and egress to, from and over all buildings and structures used in connection with the operation of any facility from, at or in which any minerals are produced, treated, processed or refined in any way, or any building or office, whether or not occupied by a taxpayer, at which are kept any books or records pertaining to the production, treatment, processing or refining of any minerals;

(b) allowed to take from time to time, from any facility mentioned in clause (a), any samples or specimens that he may desire for the purpose of determining the quantity or quality of any minerals or otherwise; and

(c) given full and complete access to all books of account, records, ledgers and other documents kept or used for or in connection with the work and business of any facility mentioned in clause (a) or

with the sale or other disposition of any minerals, whether maintained in written, typewritten, printed or photographic film form or entered or recorded by any system of mechanical or electronic data processing or information storage, and may examine the same and take copies thereof or extracts therefrom;

but, except insofar as it is necessary to do so for the purposes of this Act or any other Act administered by the department, any information acquired by him under this section shall not be communicated or disclosed by him to anyone in such a manner that it is possible from any such communication or disclosure to relate any such information to any taxpayer or to any other person from whom it was so acquired.

25.-(1) Every person who fails to deliver any return, notice or other document that he is required to deliver under this Act or the regulations is liable for and shall pay to the minister a penalty of:

(a) in the case of any return required by section 21, $50 for each day after the day upon which he was required to deliver the return; or

(b) in any other case, $10 for each day after the day upon which he was required to deliver the return, notice or other document;

unless the minister has waived the penalty or fixed a lesser amount in respect of any particular failure.

(2) Every person who has failed to complete any information required on any return, notice or other document that he is required to deliver under this Act or the regulations is liable for and shall pay to the minister a penalty of:

(a) in the case of any return required by section 21, $50 for each day after the day upon which he de-

livered the return until the day upon which complete information is delivered to the minister; or

(b) in any other case, $10 for each day after the day upon which he delivered the return, notice or other document until the day upon which complete information is delivered to the minister;

unless the minister has waived the penalty or fixed a lesser amount in respect of any particular failure.

25. Every person who wilfully attempts to evade payment of any of the taxes imposed by this Act is, in addition to any other penalty that may be imposed under this Act, liable for and shall pay to the minister a penalty in an amount equal to 50 per cent of the amount of the tax sought to be evaded or such lesser amount as the minister may demand.

27. Except as otherwise expressly provided in this Act or the regulations, any penalty provided for in this Act may be imposed notwithstanding that some other penalty may also be imposed in the same or similar circumstances.

28.-(1) Every person who knowingly fails to deliver any return, notice or other document that he is required to deliver under this Act or the regulations, or who knowingly fails to complete any information required on any such return, notice or other document, is guilty of an offence and, in addition to any penalty otherwise provided for in this Act, is liable on summary conviction:

(a) in the case of any return required by section 21, to a fine of not less than $1,000 nor more than $10,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to impri-

sonment for a term, or additional term, of six months; or

(b) in any other case, to a fine of not less than $100 nor more than $5,000.

(2) Every person who knowingly makes or signs any false statement or furnishes any false or incorrect information to the minister or to any officer of the department with respect to any matter or thing with respect to which information is required under this Act, or who keeps or causes or permits to be kept any false or incorrect books of account or other records regarding anything required under this Act, is, in addition to any other liability under this Act, guilty of an offence and, in addition to any penalty provided for in this Act, is liable on summary conviction to a fine of not less than $1,000 nor more than $10,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

(3) Every person who, in any manner whatever, wilfully attempts to evade payment of any of the taxes imposed by this Act, or who conspires with any other person to evade payment of any such taxes, is guilty of an offence, and, in addition to any penalty provided for in this Act, is liable on summary conviction to a fine of not less than 25 per cent nor more than double the amount of tax sought to be evaded or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

(4) Where a corporation is guilty of an offence under this Act, any director, officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable on summary conviction to

the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

29. Notwithstanding the provisions of any other statute, all taxes imposed by this Act, and all interest, penalties and other amounts payable under this Act in respect of those taxes, constitute a first lien, charge and encumbrance in favour of the Crown upon the entire estate, real and personal, of the person who is liable to pay such amounts, including without limitation his interest in any minerals or any mineral rights whether as the owner thereof or otherwise, in priority to every claim, privilege, lien or encumbrance of any other person, whether the right or title of such other person has accrued before or accrues after the attaching of the first lien, charge and encumbrance, and the priority of the first lien, charge and encumbrance shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, or by the tender or acceptance of any partial payment of such amounts, and the first lien, charge and encumbrance may be realized by the seizure or the seizure and sale of such estate or any part or parts thereof.

30. In addition to any other remedy for the recovery of any tax, interest, penalty or other amount due and owing under this Act, or where the payment of any accrued or future tax, interest, penalty or other amount appears to the minister to be in danger, an application for an injunction or an order in the nature of an injunction, or for the appointment of a receiver with all necessary powers, or for such other relief or remedy as seems necessary or expedient for securing payment thereof, may be made ex parte to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan at the instance and in the name of the minister, and, upon the application, the judge may grant an injunction or make such

an order upon any terms and conditions that he considers proper.

31. Where, contrary to this Act, any person refuses or neglects to permit the minister or any authorized officer of the department to examine, inspect or make copies of any books, records or documents mentioned in section 24 in the custody or under the control of that person, or where any person obstructs the minister or any officer of the department in the performance of any of his duties under section 24 or otherwise under this Act, the minister may apply ex parte to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan, and the judge may order the production and delivery of any books, records or documents for inspection and copying or enjoin that person from such obstruction.

32. Where default is made in the payment of any taxes, interest, penalties or other amounts due and owing under this Act, such amounts may be levied and collected by distress, together with all costs of distress, upon the goods and chattels, wherever found, of the taxpayer under a warrant signed by the minister directed to the sheriff having jurisdiction in the area in which the taxpayer may have any goods or chattels, and the sheriff shall realize the amount directed to be realized by the warrant, together with all incidental costs, by the sale of the goods and chattels distrained or of so much thereof as may be necessary to satisfy the amount directed to be levied by the warrant together with the costs of the distress and sale.

33. Where any taxes, interest, penalties or other amounts under this Act are not paid when due, the minister may require the retention by way of deduction or set-off of such amount as he may specify from or out of any amount that

is or may become payable by the Crown to the taxpayer or to any other person on behalf or for the benefit of the taxpayer.

34.-(1) If any tax, interest, penalty or other amount due and owing under this Act is not paid, the same may be recovered with costs from any person liable for payment thereof by an action to be tried without a jury at the suit of the minister in any court of competent jurisdiction.

(2) Any action that may be brought under this Act may be brought by the minister as plaintiff, and it is not necessary to name the minister, and the action does not abate by reason of a change in the person of the minister or by reason of the office being vacant at any time, but the action may proceed as if no change has been made or no vacancy exists.

(3) The remedies and the rights of action provided in subsections (1) and (2) are in addition to all other rights and remedies that may be exercised under this Act.

35. Every person who knowingly contravenes any provision of this Act or the regulations is guilty of an offence punishable on summary conviction and, unless otherwise specifically provided, is liable to a fine of not less than $100 nor more than $5,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

36.-(1) Where the minister has determined that one of the main purposes for a transaction or transactions effected before or after the coming into force of this Act was improper avoidance or reduction of any taxes that might otherwise have become payable under this Act, the minister may give such directions as he considers appropriate to counteract the avoidance or reduction.

(2) An avoidance or reduction of taxes may be regarded as improper for the purposes of this Act although not otherwise illegal or unlawful.

(3) A direction of the minister under this section may relate to any taxes, interest, penalties or other amounts payable under this Act by one or more persons and for one or more periods.

(4) Where a direction of the minister has been given under this section, tax shall be paid and collected, notwithstanding any other provision of this Act or any provision of any other statute, in accordance with such direction.

(5) Written notice of a direction by the minister under this section shall be mailed or delivered immediately to the person or persons affected thereby.

37.-(1) Where the minister is satisfied that, notwithstanding the separate existence of any two or more persons:

(a) their separate existence in any period is not solely for the purpose of carrying out the business of the separate persons in the most effective manner; and

(b) one of the reasons for their separate existence is to reduce the amount of taxes otherwise payable under this Act;

the two or more separate persons, if the minister so directs, shall be deemed to be associated persons for the purposes of this Act.

(2) Written notice of a direction by the minister under subsection (1) shall be mailed or delivered immediately to the persons deemed to be associated persons.

PART IV.

GENERAL.

38. The Lieutenant Governor in Council may, from time

to time, by regulation exempt, in whole or in part and on such terms or conditions as he may impose:

(a) any scheduled mineral or class of scheduled minerals from any of the taxes imposed by section 4;

(b) any mineral right or class of mineral rights from any of the taxes imposed by section 8; and

(c) any person or class of persons from liability to pay or remit any of the taxes imposed by this Act;

and may authorize, in connection therewith, a refund or partial refund of any taxes paid before the exemption is ordered.

39. Where it is considered by the Lieutenant Governor in Council to be in the public interest not to demand payment of the whole amount of any taxes, interest, penalties or other amounts payable under this Act, the Lieutenant Governor in Council may compromise and settle the matter by accepting such amount as he considers proper and, where the taxes, interest, penalties or other amounts have been paid, he may refund them or part of them to the person or persons entitled thereto.

40. The Lieutenant Governor in Council may, from time to time, by regulation enlarge the time for the payment of any tax, interest, penalty or other amount under this Act or for doing any other act or thing required to be done under this Act or for filing or delivering any return, notice or other document the filing or delivery of which is required or provided for by this Act.

41.-(1) For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are not inconsistent with this Act, and every regulation made under this Act has

the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

(a) defining any word or expression used in this Act;

(b) prescribing anything that is, by this Act, to be prescribed by regulation or is to be determined or regulated by regulation;

(c) prescribing the form and contents of any return, notice or other document the filing or delivery of which is required or provided for by this Act;

(d) providing for the delegation of any of the powers and duties of the minister under this Act to any officer or officers of the department named or designated from time to time in such regulations;

(e) respecting any other matter that he considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made from time to time under this Act may be made retroactive to, and in such case shall have full force and effect on, from and after, January 1, 1984 or such later date as is specified in the regulation.

42.-(1) Subject to subsection (2), the taxes payable under The Mineral Taxation Act shall not apply to any mineral for any period after December 31, 1983.

(2) The taxes payable under section 3 of The Mineral Taxation Act shall continue to apply, until Decemer 31, 1984, to any owner who is a party to a Potash Resource Payment Agreement approved and signed on behalf of the Crown pursuant to Order in Council 1788/79 in respect of any lands to which such Agreement applies.

(3) An owner shall not be liable to pay any tax imposed under section 8 to the extent that he continues to be liable

to pay tax under section 3 of The Mineral Taxation Act by virtue of subsection (2).

43. This Act comes into force on January 1, 1984.